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FISCAL IMPACT STATEMENT

LS 6944

BILL NUMBER: SB 273

NOTE PREPARED: Apr 29, 2013

BILL AMENDED: Apr 26, 2013

SUBJECT: Professions and Occupations.

FIRST AUTHOR: Sen. Miller Patricia

FIRST SPONSOR: Rep. Clere

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill does the following.

Definition Change- The bill amends the definition of "ambulatory outpatient surgical center" to require that a certified registered nurse anesthetist (CRNA) administer the anesthetic under the direction of and in the immediate presence of a physician.

Anesthesiologist Assistants- The bill requires anesthesiologist assistants (AA) to be licensed and to work under a supervising anesthesiologist. The bill requires the Medical Licensing Board (MLB) to administer the licensure of anesthesiologist assistants.

Criminal Penalties- The bill makes it a Class B misdemeanor for an individual to profess to be an anesthesiologist assistant or use the title "anesthesiologist assistant" without being licensed.

Dietitians- The bill removes and amends certain provisions providing for certification of dietitians to provide instead for licensure of dietitians. The bill requires that, with certain exceptions, an individual who: (1) professes to be a licensed dietitian; or (2) implies by words or letters that the individual is a licensed dietitian; must be licensed. The bill changes the name of the Indiana Dietitians Certification Board (IDCB) to the Indiana Dietitians Licensing Board (IDLB). The bill specifies that an individual who is a certified dietitian on June 30, 2013, becomes a licensed dietitian beginning July 1, 2013.

Music Therapists- The bill provides that an individual may not profess to be a certified music therapist or use the term "music therapy" to describe the therapy provided unless the individual holds and maintains the

credentialing administered by the Certification Board for Music Therapists (CBMT) and provides for exceptions. The bill requires a certified music therapist to collaborate with the client's physician, psychologist, or other health or mental health professional.

CRNA Anesthesia Administration- The bill allows a certified registered nurse anesthetist to administer anesthesia for a podiatrist if specified conditions are met. (Current law allows a CRNA to administer anesthesia under the direction of and in the immediate presence of a physician.)

Health Finance Commission- The bill requires the Health Finance Commission, during the 2013 legislative interim, to study certain issues concerning: (1) CRNAs; and (2) ambulatory outpatient surgical centers.

Effective Date: Upon Passage; July 1, 2013.

Explanation of State Expenditures: *Anesthesiologist Assistants-* Based on the current number of persons that have met the National Commission on Certification of Anesthesiologist Assistants (NCCAA) the cost to process licenses, other than additional computer software updates, would likely be minimal. However, over time, costs to process licenses could be higher as more Indiana residents achieve an NCCAA certification or more persons with a certification move to Indiana seeking jobs in the AA field.

Impact to the MLB- The Medical Licensing Board would set fees, develop standards, conduct random audits, and preside over disciplinary matters regarding AA licenses. Whether the MLB would need additional meetings to develop rules or hear disciplinary cases, would depend on future board action and the number of licensed persons that may commit a violation.

D Felony- A person who acts as an AA without a license would commit a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Dietitians-

Requirements of Board- The Indiana Dietitians Licensing Board would have to meet at least four times per year, instead of the current two times per year (required of the Certification Board). In theory, two additional meetings would increase the cost for IDLB members' per diem and subsistence, and increase PLA staff time for meeting preparation and staffing. However, the IDCB has not had a meeting scheduled since August 2011. The proposed IDLB would have seven members, the same number as the current IDCB. Therefore, there should not be an increase in board costs due to any additional members.

Board Action- The IDLB would be able to receive and process complaints and investigate alleged violations. The IDLB would be able to examine witnesses, administer oaths, and seek injunctive relief to prohibit any unlicensed person from providing professional dietetic or nutritional care services. If further investigation/legal action is deemed necessary, the IDLB could turn over proceedings to the Attorney General (AG), which may increase the administrative workload of the AG.

Test Vendor- The bill would continue the existing practice of using a private testing vendor as approved by the Commission on Dietetic Registration (CODR). Depending on any rules adopted by the IDLB, any examination changes would depend on the CODR to complete and would not impact state expenditures. Examinations are currently computerized and are available year round, Monday through Friday.

Reciprocity/Grandfathering- The IDLB would be able to issue a license to an applicant, if the applicant presented evidence that he/she had been issued a license in a state that meets or exceeds the requirements for licensure in Indiana. The bill would give the proposed IDLB the power to waive the examination requirement for out-of-state dietitians, if the licensing requirements in another state are equivalent or more stringent than in Indiana. The ability to waive certain exams and the bill's grandfathering provision, would significantly reduce the expenditures necessary to convert existing certified dietitians to licensed status.

Other Expenditures- The proposed IDLB would have to change the letterhead on existing IDCB stationary, signage, and applications to update the board's name change. With the widespread availability of licensure applications and other informational documents online, via the PLA website, the costs to make these changes and updates could be partially mitigated. The IDLB would likely be able to make the rules necessary to comply with the bill within their existing level of resources.

Health Finance Commission- The Health Finance Commission should be able study the topics assigned by the bill within its standard course of meetings during the 2013 interim.

Explanation of State Revenues: *Anesthesiologist Assistants-* If the licensing fee for AA's were set at \$150, revenue would likely be less than \$1,000 in the first year of implementation, unless additional persons from outside of Indiana with an NCCAA certification were to move to Indiana seeking employment as an anesthesiologist assistant. [See: Background Information for more detail.]

Current law allows for a civil penalty not to exceed \$1,000 per violation whenever a licensed practitioner has been disciplined by a professional board via a fine. If more health practitioners are disciplined, as a result of the bill, state revenues may increase slightly with the imposition of more civil penalties. Professional licensing civil penalties are placed in the state General Fund.

Dietitians- The bill would give the proposed IDLB the option to increase the supervised practice experience for a new dietitian by 300 hours to 1,200 hours. This provision may slow the initial licensing of dietitians in the first years of implementation.

CRNA Anesthesia Administration- Under current law a person that violates any provision of the nursing statute commits a Class B misdemeanor. In the event that a registered certified nurse administered anesthesia, out of the presence of a physician or a podiatrist certified to administer anesthesia, the nurse would commit a Class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

Fines- Additionally, the State Nursing Board could sanction or discipline a nurse who violated the proposed requirements of the bill. Fines could be levied up to \$1,000 per violation. Health profession fines are placed in the state General Fund, unless otherwise designated by law.

Background Information- The NCCAA reports that there are four persons residing in Indiana that have an

NCCAA certification. The State of Ohio has two licensed AA's with an Indiana home address. Ohio currently has about 150 actively licensed AA's. Ohio's population is nearly twice that of Indiana. If similar employment demands for AA's were to occur in Indiana over the next few years, the upper bound of Indiana licensees may reach 75 persons.

PLA License Counts- The Professional Licensing Agency reports there were 1,355 active certified dietitians as of September 2012. Certification fee revenue from dietitians totaled \$28,295 over the FY 2011 - FY 2012 biennium. Additionally, there were 230 active dental anesthesia permits and 693 active dental hygiene anesthesia permits. There were 2,018 active osteopathic physician licenses with 1,342 of them having a controlled substance regulation designation.

Explanation of Local Expenditures: *Criminal Penalties*- If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small. A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Criminal Penalties*- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction; Professional Licensing Agency; Indiana Dietitians Certification Board; Medical Licensing Board; State Board of Nursing.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: *Indiana Handbook of Taxes, Revenues, and Appropriations*, FY 2012; Professional Licensing Agency active license/certification totals 9/19/2012; Felicia Kenan Boyles, Executive Director of the National Commission on Certification of Anesthesiologist Assistants; State of Ohio Professional Licensing Database: license.ohio.gov/lookup.

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